

HOUSE. . . . No. 1037.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 16, 1899.

The committee on Railroads, to whom was referred the bill (taken from the Senate files of last year) relative to the crossings of railroads and public ways in East Boston (Senate, No. 90), report that the same ought to pass in a new draft herewith submitted.

For the Committee,

HUGH D. STALKER.

HOUSE OF REPRESENTATIVES, March 31, 1899.

The committee on Ways and Means, to whom was referred the bill relative to the crossings of railroads and public ways in East Boston, report that the same ought to pass.

For the Committee,

A. H. BURGESS.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Ninety-nine.

AN ACT

Relative to the Crossings of Railroads and Public
Ways in East Boston.

*Be it enacted by the Senate and House of Representatives
in General Court assembled, and by the authority of the
same, as follows:*

1 SECTION 1. Upon a petition hereafter filed by
2 the mayor and aldermen of the city of Boston,
3 praying for such alterations of the crossings of
4 public ways and the railroads of the Boston and
5 Maine railroad and the Boston and Albany rail-
6 road company in that part of Boston called East
7 Boston as will avoid crossings at grade, the
8 superior court or any justice thereof sitting in
9 equity for the county of Suffolk, after such notice
10 by public advertisement or otherwise as the court
11 or justice shall deem desirable, and a hearing,
12 may appoint a commission of three disinterested
13 persons to determine whether said grade crossings
14 or any of them should be abolished as hereinafter
15 provided, or the use thereof changed or regulated.

1 SECTION 2. If said commission shall determine
2 that the public convenience, necessity and economy
3 require that no alteration should be made at present
4 in the grade or location of said public ways, or of
5 said railroads, or that in view of existing condi-
6 tions and circumstances it is prudent that further
7 protection at said grade crossings, or any of them,
8 should be made, or that the use thereof should be
9 changed or regulated, it shall so report to the
10 court, within six months from the time of its
11 appointment, with its recommendations relative
12 thereto, and the recommendations and decision of
13 the commission being confirmed by the court,
14 shall be forthwith carried out.

1 SECTION 3. If said commission shall deter-
2 mine that the public convenience, necessity and
3 economy require the abolition of said grade cross-
4 ings, or any of them, said commission shall pre-
5 scribe the manner and limits within which altera-
6 tions of the grade crossings of Curtis street,
7 Saratoga street, Bennington street, Maverick
8 street, Sumner street and Webster street shall be
9 made by lowering the tracks of said railroads
10 within the limits thereof and by carrying said
11 streets over said tracks; Prescott street and
12 Porter street shall also be carried over said
13 tracks: *provided, however*, that Prescott street and
14 Porter street may also be carried over Bremen
15 street, and that Saratoga street and Bennington
16 street may be carried over said tracks on one and
17 the same bridge if the commission determines that
18 the public interest so requires.

1 SECTION 4. The cost of carrying out the rec-
2 ommendations and decision of said commission, as
3 confirmed by the court, including land damages,
4 shall be borne in the following proportions:
5 twenty per centum by the city of Boston, thirty
6 per centum by the Commonwealth and fifty per
7 centum by said railroad companies in the propor-
8 tion for each railroad company that shall be
9 determined and apportioned by said commission;
10 but if one only of said companies abandons or
11 discontinues its location under the provisions of
12 the following section, said fifty per centum shall
13 be borne by the other company.

1 SECTION 5. If said commission shall decide
2 that any of said grade crossings should be abol-
3 ished, or the use thereof further regulated, either
4 of said railroad companies within two months
5 after the report of said commission has been con-
6 firmed by the court, may discontinue or abandon
7 its locations in all the public ways in East Boston
8 and file a notice to that effect in the court which
9 has confirmed said report, and in such case the
10 decision of said commission, so far as it relates to
11 the railroad company making such abandonment
12 or discontinuance, shall not be enforced, but such
13 company may retain possession and control of the
14 docks, wharves and other property owned or oc-
15 cupied by it outside of the public ways: *provided,*
16 *however,* that whatever property of the company
17 making such abandonment or discontinuance is
18 taken by said commission, and is required to

19 carry out its determinations and prescriptions,
20 shall not be retained by such company, and the
21 company making such abandonment or discon-
22 tinuance shall, within six months after such filing,
23 remove its railroad tracks from within the limits
24 of every public way in East Boston, and any
25 court having jurisdiction in equity shall have
26 authority in equity to compel such removal.

1 SECTION 6. In case any land, wharf or dock
2 heretofore taken by purchase or otherwise by
3 either of said railroad corporations or by said city
4 is taken under authority of this act, the damages
5 to be paid to such corporation or city, on account
6 of the taking of such land, wharf or dock shall be
7 assessed as if the railroad corporation or city
8 were the sole owner thereof; and either of said
9 railroad corporations may sell and convey any
10 land, wharf or dock occupied by it for railroad
11 purposes in East Boston, and the purchaser
12 thereof for any public purposes shall have the
13 right to occupy the same thereafter for said
14 public purposes, and if either of said railroad
15 corporations is required by the order of said
16 commission to abandon any part of its location,
17 and thereupon abandons the same, the value of
18 the land, wharf or dock so required to be aban-
19 doned shall be included in the total cost of the
20 alterations.

1 SECTION 7. The provisions of chapter four
2 hundred and twenty-eight of the acts of the year

3 eighteen hundred and ninety and acts in amend-
4 ment thereof or in addition thereto, so far as they
5 are not inconsistent with the provisions of this
6 act, shall apply to said commission and to the
7 carrying out of its decisions.

1 SECTION 8. No change in the grade of either
2 of said railroads shall be prescribed by said com-
3 mission until such change has received the con-
4 sent and approval of the board of railroad
5 commissioners.

1 SECTION 9. This act shall take effect upon its
2 passage.

